



City of  
**Rockville**  
Get Into It

## **Planning Commission Staff Report: Zoning Text Amendment TXT2012-00231**

**MEETING DATE:** November 9, 2011

**REPORT DATE:** October 31, 2011

**FROM:** Deane Mellander, Zoning  
Administrator  
Planning and Zoning Division  
240.314.8224  
dmellander@rockvillemd.gov

**APPLICATION DESCRIPTION:** Amend the definition of "family" in  
Sec. 25.03.02 of the Zoning Ordinance

**APPLICANT:** Mayor and Council of Rockville

**FILING DATE:** September 20, 2011

**RECOMMENDATION:** Approval of the Revised Text

**EXECUTIVE SUMMARY:** The proposed revision will clarify the occupancy regulations for dwellings for a single family, clarifying that the occupants in all cases must be living as a single housekeeping group.

***Zoning Ordinance of  
The City of Rockville***  
*Adopted December 15, 2008  
by Ordinance 19-08*

Being Chapter 25 of the Rockville City Code

**Effective Date – March 16, 2009**

As Amended to  
June 6, 2011

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## RECOMMENDATION

Approval of the proposed text amendment.

### Previous Related Actions

- The current definition of “family” was adopted as part of zoning text amendment TXT2011-00230. However, at that time the Mayor and Council expressed some concerns regarding how the provision would be interpreted and enforced. The staff conducted further research and recommended the proposed clarification. The Mayor and Council authorized the filing of the text amendment at its meeting on September 19, 2011.

### Proposal

The proposed text amendment reads as follows:

Amend Article 3, Definitions, Terms of Measurement and Calculations, as follows:

Sec. 25.03.02 – Words and Terms Defined

\* \* \*

*Family -*

- (a) An individual, or two (2) or more persons, all of whom are related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship, and not more than two (2) other unrelated persons as long as all of the occupants are living together as a single housekeeping group in a dwelling unit; or
- (b) [a] A group of not more than five (5) persons [all of whom] who are not collectively related to each other by blood, marriage, domestic partnership, adoption, guardianship, or other duly authorized custodial relationship, and are living together as a single housekeeping group in a dwelling unit.

Underlining indicates new language. Bold brackets indicated language to be deleted.

## PROJECT ANALYSIS

During the deliberations on Zoning Text Amendment TXT2011-00230, and the companion amendment to the Property Maintenance Code, the Mayor and Council directed staff to return for a further discussion of the zoning definition of family. This discussion addresses some of the issues that are involved in how the definition has evolved.

Zoning is intended to regulate uses for purposes of controlling the impacts of these uses within each of the different zoning districts. All of the regulations regarding families and occupancy

adopted throughout the country were done for essentially one purpose – to maintain the traditional neighborhood character of single-family zoning districts where a single-family detached house has been occupied by a traditional family. This has been upheld as a legitimate governmental interest in land use planning.

The RORZOR Committee spent a good deal of time working on the definition of family. The definition is tied to what constitutes a family in terms of dwelling unit occupancy. The original City zoning ordinance adopted in 1932 defined a family as follows:

Any number of individuals living and cooking together on the premises as a single housekeeping unit.

By the 1960's, the definition had been revised to read as follows:

An individual, or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

This definition was carried forward until the ordinance was comprehensively revised and became effective in March, 2009. In developing the current language, the committee took note of the changing circumstances under which familial ties may be arranged. The allowance for up to five unrelated individuals living as a single housekeeping unit was carried forward. The definition as of March 16, 2009 read as follows:

*Family:* An individual, or two (2) or more persons, all of whom are related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship, or a group of not more than five (5) person all of whom are not related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship, living together as a single housekeeping group in a dwelling unit.

For comparison, the County Zoning Ordinance defines "family" as follows:

Family: An individual or 2 or more persons related by blood or marriage, or a group of not more than 5 persons, excluding servants, not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

Prince Georges County defines family as follows:

- (A) An individual maintaining a household in a "Dwelling Unit"; or
- (B) Two (2) or more individuals related by blood, adoption, or marriage (including a "Foster Home" relationship other than a "Group Residential Facility") who maintain a common household in a "Dwelling Unit"; or

- (C) Not more than five (5) individuals (excluding servants), all or a part of whom are unrelated to one another by blood, adoption, or marriage, and who maintain a common household in a "Dwelling Unit."

The City of Gaithersburg uses this definition:

"One or more persons occupying a single housekeeping unit and using common cooking facilities; provided, that unless all members are related by blood or marriage, no such family shall contain over five (5) persons."

The current definition in the City's Zoning Ordinance as adopted by TXT2011-00230 reads as follows:

*Family* - An individual, or two (2) or more persons, all of whom are related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship and not more than two other persons; or a group of not more than five (5) persons all of whom are not related to each other by blood, marriage, domestic partnership, adoption, guardianship, or other duly authorized custodial relationship, living together as a single housekeeping group in a dwelling unit.

The related definition in the Zoning Ordinance of a single housekeeping group reads as follows:

*Single Housekeeping Group* – The functional equivalent of a traditional family, whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas, and sharing household activities and responsibilities such as meals, chores, and expenses.

By contrast, the ordinance provides a definition of a boardinghouse as follows:

*Boardinghouse* - A dwelling in which lodging or meals, or both, are furnished to three (3) or more guests for compensation. A boarding house is not considered a home-based business enterprise. This use is not permitted within the City, and violations will be subject to the Enforcement provision of Article 19 of this Code.

There are two distinctions to be drawn between a family, as defined, and a boardinghouse. The first distinction relates to the number of people allowed to live together. A boardinghouse is defined as having 3 or more roomers, for which meals and/or lodging are furnished for compensation. This type of use is prohibited. The family definition allows two or more related persons and up to 2 additional unrelated persons; or a total of 5 unrelated persons to live together under certain circumstances. The second distinction relates to the manner in which the people interact and live together. The boardinghouse definition states that meals and/or lodging are provided to the guests, and they do not have to be a single housekeeping group. The definition of family requires that those living together be a single housekeeping group in order to meet the definition. It may be interesting to note that while the definition of family

does not mention compensation in exchange for living as part of the household, it does not prohibit it.

The rationale behind prohibiting boardinghouses is that they are more characteristic of a multifamily dwelling or small hotel rather than a single-family dwelling. The City's Zoning Ordinance does not allow for multifamily type dwellings or hotels in a single-family zoning district.

The Property Maintenance Code, which is adopted as part of Chapter 5 of the City Code, was amended on June 6 along with the Zoning Ordinance to conform the definitions of "family" in both places. In addition, Section PM-405.5 provides regulations limiting overcrowding in dwelling units (which may include single family detached and attached houses as well as multifamily units). The following table provides these limitations:

Minimum Area Requirements			
Space	Minimum area in square feet <sup>b</sup>		
	1-2 Occupants	3-5 Occupants	6 or more
Living Room <sup>a</sup>	No requirements	120	150
Dining Room <sup>a</sup>	No requirements	80	100
Kitchen	50	50	60
Bedrooms	Shall comply with Section PM-405.3		

Note a: See Section PM-405.6 for combined living/dining room spaces

Note b: 1 square foot = 0.093 m<sup>2</sup>

Section PM-405.3 reads as follows:

**Area for sleeping purposes:** Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet (6.5 m<sup>2</sup>) of floor area and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.

Section PM-405.6 reads as follows:

**Combined spaces:** Combined living room and dining room spaces shall comply with the requirements of Table PM-405.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

Under these minimum standards, a dwelling housing 5 unrelated persons (the current ordinance limit) would need the following minimum space requirement:

Living/Dining - 200 s.f.

Kitchen - 50 s.f.

Bedrooms - 350 s.f. (70 x 5)  
Bath - 50 s.f.  
650 s.f. total

If four of the five people double up in bedrooms, then the bedroom requirement would be 270 square feet (100 + 100 + 70) and the total minimum requirement would be reduced to 570 square feet.

The City's Code attempts to strike a balance between a person's choice of living arrangement and the City's legitimate governmental interest in maintaining the traditional neighborhood character of single-family zoning districts by allowing for any number of related persons and up to 2 additional unrelated persons to live together as a family and allowing up to 5 unrelated persons to live together as a single housekeeping group. The courts have upheld this type of definition with similar limitations on the number of household members. Moreover, based on the code provisions in surrounding jurisdictions, the City's definition seems to be the generally accepted practice elsewhere in the area.

At the time the Mayor and Council considered the recent amendment to the definition of family in TXT2011-00230, they expressed some concern that the first half of the definition that defines family as two or more related persons and up to two additional unrelated persons could result in limiting the number of allowable persons to less than the number allowed under the second half of the definition, which allows up to five unrelated persons to live as a family. As a result, the staff developed the revised definition as shown above.

The proposed revision clarifies the intent of the current definition of allowing up to five unrelated persons to live together by making clear that the five residents do not have to be collectively related, and this would allow for cases where some of the residents may be related, such as a mother and child. This addresses the Mayor and Council's concern that the first half of the current definition of family may limit the number of persons allowed to less than five residents. The revision effectively provides that up to 5 persons in a dwelling are deemed a family, whatever their relationships. For instance, a homeowner couple would be allowed up to three unrelated roomers. A related family of five is allowed two additional roomers, as has been the case in the past. In addition, the revision clarifies that in all cases the residents of the dwelling unit must be living as a single housekeeping group, which would not be the case with a boardinghouse.

If more than 5 unrelated people wish to live together, there is the option available to homeowners of an accessory apartment via special exception. This allows for the creation of a second dwelling unit in a house, which may include having a separate entrance. Occupancy of the accessory apartment is limited to 3 persons and it must be subordinate to the main dwelling. The owner of the house must also be an occupant of one of the units in the house. If the property is sold or the owner/occupant vacates, then the special exception automatically expires. Under these circumstances, a new application is required to reactivate the accessory

apartment. A new owner of the property cannot legally allow the apartment to be used without obtaining a new special exception.

If the text amendment is approved by the Mayor and Council, a companion ordinance will need to be adopted to revise the Property Maintenance Code to make the definitions consistent with each other.

## **ATTACHMENTS**

### **1. Text Amendment Application**





Application for

## Text Amendment

RECEIVED  
CITY CLERKS OFFICE

2011 SEP 20 AM 11:32

Print Form

**TXT**  
2/09

### City of Rockville

Department of Community Planning and Development Services

111 Maryland Avenue, Rockville, Maryland 20850

Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: [Cpds@rockvillemd.gov](mailto:Cpds@rockvillemd.gov) • Web site: [www.rockvillemd.gov](http://www.rockvillemd.gov)

#### Application Information:

Is this an Amendment to Existing Text? ☒ YES ☐ NO

Add New Zone Classes: ☐ YES ☒ NO Add New Uses: ☐ YES ☒ NO

Number of new uses: \_\_\_\_\_ Ordinance # \_\_\_\_\_

*Please Print Clearly or Type*

Property Address information N/A

Project Description Revise the definition of "family" in Section 25.03.02 of the zoning ordinance

#### Applicant Information:

*Please supply Name, Address, Phone Number and E-mail Address*

Applicant Mayor and Council of Rockville 111 Maryland Avenue, Rockville, MD 20850

Property Owner N/A

Architect N/A

Engineer N/A

Attorney N/A

#### STAFF USE ONLY

##### Application Acceptance:

Application # TXT2012-00231

Date Accepted 9/20/2011

Staff Contact Deane Mellander

##### Application Intake:

OR Date Received \_\_\_\_\_

Reviewed by \_\_\_\_\_

Date of Checklist Review \_\_\_\_\_

Deemed Complete: Yes ☐ No ☐



Application for

**Text Amendment****TXT**  
2/09**City of Rockville***Department of Community Planning and Development Services*

111 Maryland Avenue, Rockville, Maryland 20850

Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: Cpds@rockvillemd.gov • Web site: www.rockvillemd.gov

**Application Information:**Is this an Amendment to Existing Text ? ☒ YES ☐ NOAdd New Zone Classes: ☐ YES ☒ NOAdd New Uses: ☐ YES ☒ NO

Number of new uses: \_\_\_\_\_

Ordinance # \_\_\_\_\_

***Please Print Clearly or Type***Property Address information N/AProject Description Revise the definition of "family" in Section 25.03.02 of the zoning ordinance**Applicant Information:***Please supply Name, Address, Phone Number and E-mail Address*Applicant Mayor and Council of Rockville 111 Maryland Avenue, Rockville, MD 20850Property Owner N/AArchitect N/AEngineer N/AAttorney N/A**STAFF USE ONLY****Application Acceptance:**

Application # \_\_\_\_\_

Date Accepted \_\_\_\_\_

Staff Contact \_\_\_\_\_

OR

**Application Intake:**

Date Received \_\_\_\_\_

Reviewed by \_\_\_\_\_

Date of Checklist Review \_\_\_\_\_


Deemed Complete: Yes ☐ No ☐

Application is hereby made with the Rockville Mayor and Council for Approval of a change in the text of the Zoning and Planning Ordinance of Rockville, Maryland.

Page 14 Article 25 Section .03.02

**FROM:** Which reads as follows See attachment  
\_\_\_\_\_  
\_\_\_\_\_

**TO:** Reads as follows \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:   
(Signature of Applicant)

Subscribed and sworn before this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

My Commission Expires \_\_\_\_\_  
Notary Public

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**The following documents are furnished as part of the application:**

☒ A Complete Application

☐ Filing Fee

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**Comments on Submittal: (For Staff Use Only)**

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September 20, 2011

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ATTACHMENT TO APPLICATION  
TO THE CITY OF ROCKVILLE FOR A  
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2009, and with an effective date of March 16, 2009, by inserting and replacing the follow text (underlining indicates text to added; [brackets] indicate text to be deleted; \* \* \* indicates text not affected by the proposed text amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 3, Definitions, Terms of Measurement and Calculations, as follows:

**Sec. 25.03.02 – Words and Terms Defined**

\* \* \*

*Family –*

- (a) An individual, or two (2) or more persons, all of whom are related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship, and not more than two (2) other unrelated persons as long as all of the occupants are living together as a single housekeeping group in a dwelling unit; or
- (b) [a] A group of not more than five (5) persons [all of whom] who are not collectively related to each other by blood, marriage, domestic partnership, adoption, guardianship, or other duly authorized custodial relationship, and are living together as a single housekeeping group in a dwelling unit.